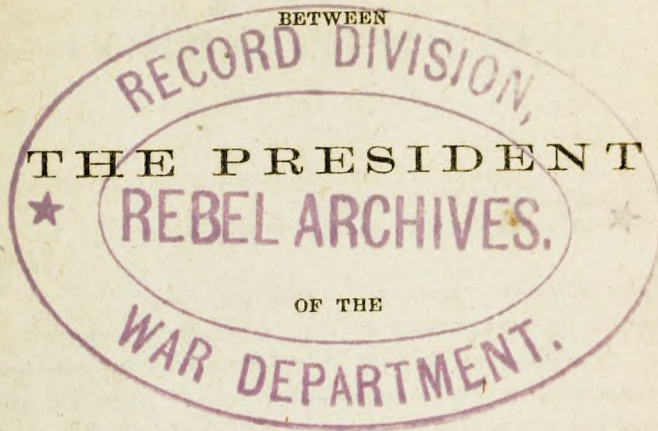


CORRESPONDENCE



VIRGINIA CENTRAL RAIL ROAD COMPANY

AND THE

POSTMASTER GENERAL,

IN RELATION TO

POSTAL SERVICE.

RICHMOND, VA

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1864

CORRESPONDENCE.

VIRGINIA CENTRAL RAIL ROAD,
President's Office, Beaverdam, Va., July 3, 1863.

DEAR SIR:

As this company is continuing to carry the mail without having made any contract, to prevent misconception, I write to say that I cannot consent to a renewal of some of its conditions.

Besides objections to the unprecedented rigor in demanding a literal compliance with the terms of the contract, I cannot consent that any one shall be authorized to occupy a large apartment in one of our cars, and the chief officers of the company not be allowed to enter it, when it is possible that it may be used to the great prejudice of its interests.

Very respectfully,

E. FONTAINE, *President.*

Hon. J. H. Reagan, P. M. General.

POST OFFICE DEPARTMENT,
Richmond, July 8, 1863.

SIR:

Your letter of the 3d instant is received, in which you say you cannot consent to a renewal of some of the conditions on which your company carries the mails. You say, "besides objections to the unprecedented rigor in demanding a literal compliance with the terms of the contract, I cannot consent that any one shall be authorized to occupy a large apartment in one of our cars, and the chief officers of the company not be allowed to enter it, when it is possible that it may be used to the great prejudice of its interests."

I hope, by a proper understanding, your objections to a renewal of your contract with the department may be obviated.

On the first point, I have to say that the performance of the mail service and of my duties connected with it, are regulated by law. Where the service is performed according to contract, the contractor is necessarily paid the full contract price for the service. Where the contractors fail to perform the service, I am required by law to make proper deductions from their pay. Such deductions are made upon fixed and reason-

able rules; and if these should in any case be so misapplied as to work injustice to a contractor, a representation of the facts to the department would cause a prompt correction of the error. It is on these principles that I have endeavored to act; and while it has been my object to exact in behalf of the public a faithful performance of duty by contractors for carrying the mails, I have been equally careful to avoid unreasonable or unlawful exactions. And I have uniformly consulted the rail road companies with which we have contracts, as to schedules, and had special reference to their wishes in fixing them, so as to avoid injury to their interests as far as possible.

On the other point made in your letter, I would say that it was found that in some instances rail road conductors were making use of the mail cars as their offices, and as a consequence, taking their friends and acquaintances into the mail cars at pleasure. This produced serious complaints from route agents, and to a greater or less extent endangered the security of the mails. It was this which gave rise to the order to exclude all persons from the mail cars except the sworn agents of the department, or those having its permission. Cases have been brought to my knowledge in which the presidents and superintendents of rail roads have complained of the rule, on the ground of its exclusion of them from the mail cars, as well as on the ground you mention, of the necessity for the companies to have the power of police over the mail cars, as well as others, to guard against abuse by the transportation of other than mail matter. In these cases I have directed that the presidents and superintendents of rail roads should be allowed, when they wished, to travel in the mail cars, and that conductors should in all cases be allowed to pass through and examine the mail cars, to prevent any thing improper from being carried in them. I did not know but that this had been made known to you, and will have instructions to this effect sent to the route agents on your road.

I trust that these suggestions will obviate your objections to renewing your contract.

Very respectfully,

JOHN H. REAGAN, *P. M. General.*

H. Fontaine, Esq., Pres. Va. Central R. R. Co.

POST OFFICE DEPARTMENT,
Inspection Office, Richmond, July 8, 1863.

SIR:

The postmaster general has so far modified my order of September 3, 1862, as to allow the president and superintendent of the Virginia Central rail road to travel in the mail cars, should they desire to do so. And, as that order was never intended to affect the right of the con-

ductors to enter and inspect the mail cars, so as to prevent the transportation of improper articles in them, you will of course offer no opposition to their entrance for this purpose. You will not, however, submit to any claim by conductors to use your apartment for the transaction of their own business, or that of the company.

Respectfully,

B. FULLER, *Chief Clerk P. O. D*
G. G. Gooch, *Esq., Route Agent, Richmond, Va.*

Copies of the above sent on same date to T. J. Edwards, E. J. Swift and W. H. Haas, route agents.

VIRGINIA CENTRAL RAIL ROAD,
President's Office, Richmond, Va., April 9, 1864.

DEAR SIR:

On the 3d of July last I apprised you that the contract with the department contained certain conditions to which I was not willing to be bound by signing, but would continue to carry the mails, on the same terms of course, until changed by agreement as to compensation.

The treasurer of this company informs me that you declined paying for service rendered, as he understood, on the ground that the contract was not signed, thereby subjecting the company to the objectionable features.

There are three objections to the contract: 1st, the right claimed to fine for some delinquency, without stating what it is and where it occurred; 2d, the exclusion of the officers of the company from the mail car; and 3d, the exaction of fines for not carrying the mails, though prevented by military authority from doing it.

Your letter was received, saying that one of these obligations would not be enforced; and whilst I do not impugn the sincerity of your promise, yet it does not comport with my views of propriety in a business transaction, to become bound, in writing, to a condition objected to, relying on the promise of forbearance in requiring compliance.

Be good enough to inform me whether you insist on having the contract signed without modification, as a prerequisite to payment for service rendered. If your sense of duty under the law should compel you to take that course, I suppose I can only obtain compensation by an act of congress.

Very respectfully,

E. FONTAINE, *President.*

Hon. J. H. Reagan, P. M. General.

POST OFFICE DEPARTMENT,
Richmond, April 11, 1864.

SIR:

Your letter of the 9th instant is received, in which you say, "There are three objections to the contract: 1st, the right claimed to fine for some delinquency, without stating what it is and when it occurred; second, the exclusion of the officers of the company from the mail car; and third, the exaction of fines for not carrying the mails, though prevented by military authority from doing it."

In answer to your first objection, I have to say that whenever fines and deductions are made from the pay of a contractor for failures to perform service, they are notified, when the settlement of the service for the quarter is made, of the amount of such fines or deductions, the dates of all failures, and the places at which such failures were made; and this has been the established and uniform rule of the department since the 3d of March 1863.

In answer to your second objection, I have to say that in my letter to you of July 8th, 1863, you were informed that the rule excluding all persons from the mail cars, had been so far modified, and corresponding directions given to our agents on all rail roads, as to allow the presidents and superintendents of rail roads to travel in the mail cars when they wished to do so, and that conductors should at all times be allowed to pass through and examine the mail cars, to prevent any thing improper from being conveyed in them.

There exists, therefore, no ground in fact for these two objections, unless you desire the substance of these instructions inserted in the contract with your company, to which there is no objection by this department.

In answer to your third objection, I have to say that this department undertakes to pay a sum agreed upon, for an amount of service agreed on, to be performed in a manner and by a schedule agreed on. You make no complaint of the failure or unwillingness of the department to pay for all the service you perform for it. But you do object to entering into a contract with it, because it will not agree to pay you for what you do not do. This I could not do under the law if I would. If you are damaged by the orders of the war department interfering with your schedules, that department, and not this, is responsible for such damage. The expenses of this department are, by the requirements of the constitution, to be paid out of its own revenues. Congress can give it no assistance from the general treasury. Nor can the other departments contribute any means to aid in defraying its expenses. In this respect it stands alone. And while it is confidently believed it will be able to pay all its own just liabilities, it might not be able to pay such damages as might result from the orders of other departments, and cannot in reason be expected to do so in any case.

We cannot expect to carry on the postal service successfully, and have no right to attempt it in any other way than that prescribed by law. The law requires the making of contracts for conveying the mails, and forbids the payment for such service without contracts.

Very respectfully,

Your obedient servant,

JOHN H. REAGAN, *P. M. General*.

E. Fontaine, Esq., Pres. Va. Central R. R. Co.

RICHMOND, April 15, 1864

DEAR SIR:

Your letter of the 11th instant meets partially one of my objections to signing the contract, viz: that right which is claimed to exclude the officers of the company from the mail car. You are willing to provide for admitting the president and superintendent. Is there not the same reason for embracing the directors? I am aware of the impropriety of the mail car being occupied by passengers indiscriminately. Do you think that a discretion on this subject is more safely trusted with one of your route agents than with the president of one of our rail roads?

The practice of your department on the subject of fines conveys an insinuation against the honesty of a rail road president. Do you really think that a prominent officer of a rail road company would deliberately make a false statement to get rid of a fine of a few dollars? I never expected that the administration of one of our departments of government would compare unfavorably with the rejected, and now deservedly detested one of the old Union. Why reverse the rule of enlightened, civilized and christian law, and presume every man dishonest? If this is not to be the case, I can see no good reason for departing from the practice of the old government, and inform the contractor that you propose to fine him for some supposed delinquency, unless he can give a sufficient excuse. Then he might explain it; but at the end of a quarter or later, he probably would have lost a knowledge of the facts of the case. Your rule is calculated to work injustice, and acquiescence in it by the contractor would seem to be a concession that the department may not expect the truth from any one.

Your subordinate agent of the post office department will admit whom he chooses in the mail car. I say *will*, because you can't prevent it, and yet you reflect on the directors of a rail road company, by refusing them admission, and cannot trust the discretion of the president or superintendent to say who may, under extraordinary circumstances, be admitted.

I think there is good ground for these two objections, after your partial modification.

In relation to the 3d, your argument is, that as we agree to perform a specified service, if we fail in any part of it, no matter for what cause, whether by our fault or not, we must be fined. We fit up mail cars at considerable expense. We appropriate them to the accommodation of the mails. We agree, for a *very small sum*, to carry them for a year. You can hardly be ignorant that if the same car was appropriated to any other transportation, it would pay a much larger sum. We are always ready to perform the promised service; but a power we cannot resist—and patriotism forbids that we should resist if we could—prevents us from carrying the mail, and yet you inflict a penalty on the rail road company as a defaulter, when it was ready and willing to perform the required service but for the interposition of a superior power, under circumstances of public necessity affecting the safety of the very government of which you are a part, and which it is your duty to protect.

Your argument is, “that we must not expect compensation for what we do not do.” On this assumption, if you failed to give us any mails to carry on any day, though we ran the usual car empty over our whole route, we must be fined, because we carried no mails, though it was from your own default, and our expenses were precisely the same as if we had carried it.

It is a mockery to refer us to the war department to compensate us for your fines for obeying their order, when that department has no funds which it can thus appropriate.

You have refused, as I understand you, to pay this company for services actually rendered, because I have declined to subject the company to some very obnoxious conditions. If the services are rendered, is there not a moral obligation to pay for them? The immoral government of the old Union never refused payment because there was not a written contract to compel. But you say that the law forbids paying for such services without contracts.

How is it that other rail road companies have been paid without signing contracts? I understand this to be the fact. My objections I know are entertained by many of our rail road companies, and consequently they have not signed contracts, but nevertheless they have been paid, as I think they should have been.

The practice in your department is both unjust and inconsistent, and if persisted in, must drive me for redress to some other source.

Very respectfully, yours, &c.

E. FONTAINE, *President*
Va. Central R. R. Co.

Hon. J. H. Reagan, P. M. General.

POST OFFICE DEPARTMENT,
Richmond, April 20. 1864.

SIR:

Your letter of the 15th instant, in answer to mine of the 11th, is just received. It exhibits such a departure from the ordinary courtesies of official correspondence, and so persistent a determination to misunderstand and misrepresent what was said with the sole view of conceding every thing to your company which you demanded, which could be conceded according to law and the rules of right, and shows so manifest a purpose to engage in useless controversy, that I can see no good which could probably arise from any further answer to it than to acknowledge its receipt, and to say that no desire has, in any way, been manifested by this department to make any other exactions or to impose any other terms on the road of which you are the president, than those which are made of every other rail road in the service.

Very respectfully,

JOHN H. REAGAN, *P. M. General.*
E. Fontaine, Esq., Pres. Va. Central R. R. Co.

VIRGINIA CENTRAL RAIL ROAD,
President's Office, Beaverdam, Va., April 22. 1864.

DEAR SIR:

Your letter, stating that you considered mine of the 15th instant discourteous, has been received.

Writing under some little excitement, from your declining to settle with this company, as you had done with others under similar circumstances, I used strong language to illustrate my objections to the contract as acted on in the department; but as I do not consider discourtesy any more justifiable in official than in private correspondence, although you have done me injustice in your last letter, I have no hesitation in saying that I did not mean to be offensive, nor do I now think my letter is justly liable to such construction.

My sole object was to endeavor to explain to you that your mode of enforcing the execution of the contract, though not designed, nevertheless seemed to me to imply that the president and directors of rail road companies were unworthy of confidence, which no gentleman, by any act of his, would be willing to concede even by implication, and to call your attention to a fact, of which you might not be aware, that an odious discrimination was made against it in the settlement of claims with your department.

Very respectfully,

E. FONTAINE, *President.*
Hon. J. H. Reagan, P. M. General.

POST OFFICE DEPARTMENT,
Richmond, April 26, 1864.

SIR

In answer to your letter of the 22d instant, and to your preceding letter of the 15th instant, I would say, that I regret you should have supposed my letter of the 11th implied any reflection on the officers of your company. Nothing certainly was farther from my intention; the object of that letter being to remove the objections which you had to executing a contract, and to show you that two of the three objections which you urged were removed by the previous action of the department, and that they should remain so, if desired by you, by provisions in the contract. The third point of objection which you pressed is one which has come up in our correspondence with many of the rail road companies; and with all of them the department has acted on the same views expressed in my letter of the 11th to you.

In your letters of the 15th and of the 22d you assume that the department discriminates between your company and other companies, by requiring of yours the execution of a contract before payment can be made, while it has settled with others without this requirement. I send you a copy of my report of December 7th, on pages 10 and 11 of which you will see the rule of action of the department stated. When I wrote you on the 20th, my impression was that this rule had been departed from in no case, as it certainly was my intention it should not be. Upon strict examination, I find that the only apparent departure from it has been in the case of the Richmond and Fredericksburg rail road, to which payment has once been made since the 1st of July 1863, without a contract. I understand that was made under the apprehension that, as the company could not perform the service on the whole of the road, it was not necessary for it to execute a contract. This was a mistaken view, and that company will be required to execute a contract as all others are required to do. This, I am informed, was the only case in which a payment has been made without a contract since the expiration of the term of the former contracts. These facts, I trust, will be a sufficient assurance to you that no discrimination has been made against your company.

Very respectfully.

JOHN H. REAGAN, *P. M. General.*
E. Fontaine, Esq., Pres. Va. Central R. R. Co.

EXTRACT FROM REPORT ABOVE REFERRED TO.

“Rail Road Service.

The department has omitted to advertise for proposals for mail service on rail road routes, because of the fact that it is authorized, under existing laws, to make contracts with rail road companies without advertise-

ment; and as there can be no competition for such service, the effect of an advertisement would simply be to invite proposals for an increase of compensation, which could not be granted unless the postal facilities furnished by the route should have so increased as to change the classification of the road, under the act approved May 9th, 1861.

Most of the rail road presidents have executed contracts with the department for the transportation of the mails from the 1st of July 1863; but there are some who refuse to execute contracts, although they are offered the maximum rate of compensation for the first class roads. At the same time they express their entire willingness to carry the mails, but are unwilling to place their roads, and mail service on them, under even that limited control of the department, which is necessary to give regularity, certainty and security to the service.

The only remedies for the evils which must result from the transportation of the mails without the restraining influence of contracts for its faithful performance, which the department can apply, are, 1st, to withhold payment for services performed without contract; and 2d, if they still refuse to contract, then to withdraw the mails from such roads, and endeavor to obtain some other mode of conveyance.

In view of the requirements of the law upon this subject, it will be my duty to apply these remedies to all roads whose presidents persist in their refusal to comply with the requirements of the department in relation to contracts; for, although the practice has existed, to some extent, of permitting the mail service to be performed on rail roads without contracts, and paying for such service by what are termed "Orders of Recognition," such practice was clearly a violation of the law which forbids payment for mail service until contracts shall have been executed according to law and the regulations of the department.

Wealthy corporate monopolies should not be permitted to occupy such a position in relation to the postal service of the country, on the great trunk lines of mail communication, as would place such service completely within their control, not only upon the main lines, but also upon the numerous minor mail routes leading therefrom; for of what avail would it be for the department to enforce, on the part of the contractors upon these latter lines, a strict compliance with the terms of their contracts in relation to schedules of arrivals and departures of the mails, if rail road lines are permitted to carry the mails at pleasure, without the obligations of contracts to compel their observance of fixed schedules, which are the essential element in a great net work of post routes? It would be unjust, if the law would tolerate it, to relieve them of conditions which are required of all other contractors.

The department has never possessed, or attempted to exercise any other authority over the schedules of arrivals and departures of mail trains upon rail roads than that necessary to require them to run in conformity with schedules "agreed on" between them and the department; and these schedules have usually been arranged in conventions held by the officers of connecting lines, so as to obtain the uniform and close schedules of connection required by their own interests.

If any road, forming part of a through line between important points, be permitted to carry the mails without executing proper contracts for the faithful performance of such service, the department will not have the power to prevent them from adopting any schedule they may deem best suited to their local business, without regard to their effect upon the regularity of the mails on their own lines, or of their proper connections with others."

VIRGINIA CENTRAL RAIL ROAD,
President's Office, Richmond, Va., May 3, 1864.

DEAR SIR:

Your letter of the 26th ultimo was received during an absence of several days on the line of the road.

I do not propose to continue the discussion of the subject of our correspondence, but desire to say that I never have objected to a contract that would enable you to secure the important objects for which you say in your report contracts should be made, and that no penalty, however severe, could have made this company more considerate of the public interest than they have been without a contract. But my objections to your mode of enforcing the contract, as set forth in my letter of the 15th ultimo, remain unchanged. At this critical juncture in our political affairs, I have neither time nor disposition to agitate a matter which, in a *pecuniary point of view*, is of such trivial importance.

I shall therefore suspend all remedial actions for the present. I will merely add, that Mr. Barbour informed me that he had settled with the department without a contract, and Mr. Daniel states that he has settled more than once.

Very respectfully,

E. FONTAINE, *President.*

Hon. J. H. Reagan, P. M. General.

VIRGINIA CENTRAL RAIL ROAD,
General Supt's Office, Richmond, Va., July 28, 1864.

SIR:

I am instructed by the president of this company to say that his duty to the stockholders will not allow him to continue the use of a car by you for the mails and your agents, without compensation. The mails have been carried to the satisfaction of the public for more than twelve months, and you are understood to refuse to pay any thing for this service.

I am required to adopt some plan by which the company will get remuneration for the use of the large space heretofore occupied by your department. At the same time the president has no desire to punish the people of Virginia and the soldiers of our army, by rejecting the mail, even though you persist in what he regards your course of injustice.

If the existing difficulties are not settled, on and after the 1st of August I shall demand of all your agents the payment of the usual fare for first class passengers, where they travel with the mail, and shall also limit the space to be occupied by the mail.

I am instructed by the president, however, to say that he is now, as he always has been, willing to sign any reasonable and proper contract,

which will preclude the unlimited right of construction heretofore exercised by the department, which induced him to decline signing the one offered by you.

Very respectfully,
Your obedient servant,

H. D. WHITCOMB, *Gen. Sup.*
Hon. J. H. Reagan, P. M. General.

RICHMOND, July 29, 1864.

SIR:

I have been directed by the postmaster general to acknowledge the receipt of your letter of the 28th instant, and to state that it was his impression that the principal objection advanced by Mr. Fontaine, president of the Virginia Central rail road, against the conditions which have always been embraced in rail road contracts made with this department (and which are identical in every particular with those used in the United States post office department from the commencement of rail road transportation of mails), had been satisfactorily met by him in the correspondence between them. As the difficulties still existing with Mr. Fontaine are not pointed out in your note, and are not understood in their precise force by the department, I take the liberty of enclosing a blank form of contract, with the request that you immediately submit the same to the president, and have him interline and alter the conditions therein so as to conform to his wishes, in order that they may be considered by the postmaster general.

Respectfully,

H. ST GEO. OFFUTT,
Chief Contract Bureau.

H. D. Whitcomb, Esq., Gen. Supt. Va. Central R. R.

BEAVERDAM, July 30, 1864.

DEAR SIR:

Yours, enclosing one from Mr. Offutt, is received, in which he requests me to repeat my objections to signing the contract which the post office department has prepared. I informed the postmaster general, in my last letter on the subject, that my objections were not satisfied, and that I delayed action because just at that time the very critical condition of the country made it inopportune to do so.

My objections are the same which have been stated before, and if I am correctly informed, are entertained by many others besides myself. It is true that the provisions are identical with those contained in the contracts of the old government, but the powers claimed under these provisions and

the practice of the department is very different, otherwise there would have been no complaint.

1st. I object to the broad power exercised by the postmaster general, of giving his own interpretation to the contract, deciding for himself without appeal, when the contract is not complied with. Immediately connected therewith, I object to his practice of exacting the payment of a fine, under the rigid enforcement of the letter of the contract, when it is shown that there was no dereliction of duty, but the company was prevented from doing what was demanded, by causes over which they had no control, as in the case of the appropriation of the whole motive power of the company, by authority of the war department, at some critical moment, for public defence. In view of this practice, and the exercise of the sole right of interpretation, the company must have some protection against the possible abuse of powers which may be claimed under clauses 1, 5, 6 and 7.

2d. The first article gives the "*exclusive use*" of the mail apartment to "*the department and its mail agent.*" The postmaster general has conceded that it is proper that some officers of the company should be allowed to travel in this car, to see that no use is made of it not contemplated by a proper interpretation of the contract, and nevertheless he refuses admission to the directors of the company, who, together with the president, are the only specially appointed guardians of its interests.

3d. Upon the ex parte report of some subordinate, he enters up fines, without notification of the charge; and the contractor only knows that he is considered subject to the fine, when he comes to settle for his mail service. This is contrary to the practice of the old government, whose form of contract has been literally copied. It is in violation of the common principles of justice. It is like condemning a man to be hung, and not giving him an opportunity for defence until the day of his execution.

My objections are entertained more against the principle of giving powers which may be abused, than on account of the pecuniary amount involved.

I do not know whether interlineation will correct these objections. I will, however, examine to see; but I desire you to show this to Mr. Offutt, and hope he will recognize the justice of providing for the points of objection.

I can never consent to have the directors excluded from the mail car; and there must be some restraint on the power of fining without notice, when there is good cause for the alleged delinquencies. If this is done I will be satisfied. I think there should be some mode pointed out for settling differences, say—a reference to the secretary of war, or a board of referees. I will now see what I can do on the contract sent, by interlining the suggested modifications.

Very respectfully,

E. FONTAINE.

H. D. Whitcomb, Esq.

POST OFFICE DEPARTMENT,
Richmond, August 1, 1864.

SIR:

On the 28th of July ultimo, I received from H. D. Whitcomb, Esq., general superintendent of the Virginia Central rail road, a letter which appears to have been written by your direction, in which he says, "I am instructed by the president of the company to say that his duty to the stockholders will not allow him to continue the use of a car by you for the mails and your agents without compensation. The mails have been carried to the satisfaction of the public for more than twelve months, and you are understood to refuse to pay any thing for this service. I am required to adopt some plan by which the company will get remuneration for the large space heretofore occupied by your department. At the same time the president has no desire to punish the people of Virginia and the soldiers of our army by rejecting the mail, even though you persist in what he regards your course of injustice.

"If the existing difficulties are not settled, on and after the first of August I shall demand of all your agents the payment of the usual fare for first class passengers, when they travel with the mail, and shall also limit the space to be occupied by the mail.

"I am also instructed by the president, however, to say that he is now, as he always has been willing to sign any reasonable and proper contract, which will preclude the unlimited right of construction heretofore exercised by the department, which induced him to decline signing the one offered by you."

In answer to this, and pursuant to my instructions, the chief of the contract bureau of this department on the same day inclosed to Superintendent Whitcomb a blank copy of a contract, with the request that he submit it to you for such interlineations and modifications as would meet your views, in order that we might have a precise view of your objections to the form of contract which is used by this department, and has been signed by the officers of the other rail road companies of the Confederacy generally, a copy of which was sent you for execution on the seventh of September 1863. On this morning Mr. Whitcomb returned this form of contract, with your notes and interlineations, accompanied by a letter from you to him, in which you restate your objections to signing a contract in the usual form; and in his note he says, "Trusting that this disagreeable subject will soon be satisfactorily settled, I shall not issue the order relative to the agents of the department, unless farther directions are given me."

Your objections to signing the usual form of contract made with rail road companies are substantially the same which you have heretofore submitted to the department, and my answer must be substantially the same that I have heretofore made you in several communications on this subject.

The form of contract used by this department is the one which has been used with every rail road company which has contracted to carry the mails for the Confederate States since the organization of our government; and it is a literal copy, in all its conditions, of the form of contract which had been used by the government of the United States for many years before the organization of our government. But you say that it is more to the construction of the contract and the action of the department, to which you object, than the form of the contract. The same rule of construction of these contracts and the practice under them, prevail in this department which prevailed under the old government; and the same rules and practice are applied to the road of which you are president, that are applied to all other roads in the Confederate States.

You make substantially three objections to signing the usual contract with the department:

1st. That the department claims the exclusive use and control of the mail cars.

2d. That the department makes deductions from the mail pay of the company for services not performed by it.

3d. That the department makes deductions and imposes fines for non-performance of service, without notice to the rail road companies previous to the settlement of their quarterly accounts.

I. In answer to your first objection, I would say that you were advised by my letter of the 8th of July 1863, and by a subsequent letter of the 11th of April 1864, "that the rule excluding all persons from the mail cars had been so far modified, and corresponding directions given to our agents on all rail roads, as to allow the presidents and superintendents of rail roads to travel in the mail cars when they wished to do so, and that conductors should at all times be allowed to pass through and examine the mail cars, to prevent any thing improper from being conveyed in them."

After you were notified of this modification of the rule of the department admitting presidents and superintendents of rail roads to ride in the mail cars, you set up a claim that the same privilege should be allowed the directors of the road of which you are president. It is proper to say that such a claim has not been made in behalf of the directors of any other road in the Confederacy.

The department is not advised of the number of the directors of your road, nor of the frequency of the trips they might wish to make in the mail cars; nor can it know how many of them might present themselves for passage in the mail cars at any one trip, nor whether the mail cars would have sufficient capacity to convey the mails and all the persons for whom you claim this privilege. While the official character of the persons for whom the privilege is required might be regarded as a sufficient guarantee of the security of the mails against depredation, it must be

remembered that it is also essential that the mail agent shall have sufficient room to empty the mail bags, assort, distribute and rebag the mail matter. This he cannot do in a car occupied by numerous passengers. And the department cannot consent that the postal service shall be rendered liable to interruption from such a cause. If this last demanded concession were made, what assurance has the department that a demand will not follow for the same privilege for all the stockholders of the road? And why not for them as well as for the directors? There is at least as much reason to expect this as there was to expect that, when you had been informed that the president and superintendents of rail roads were to be allowed to ride in the mail cars, you would then demand, as a condition, that the directors and treasurer should have the same privilege, or you would cease to carry the mails. If this privilege should be extended to the directors of your road, a like privilege must be extended to the directors of all other companies. I cannot consent to this extension of the rule against the admission of unsworn and unauthorized persons into the mail cars, as well because of the embarrassment which such a course would probably entail on the agents of the department and the postal service, as because it would be a clear and manifest violation of the spirit of the law, looking to the security of the mails, thus to expose them to the forbearance of whole classes of persons, who, if they did not themselves interfere with them, would, by their presence, destroy the responsibility of our agents, by putting it in their power, in case of loss or impropriety, to say that there were so many others present they could not be held responsible for a wrong which it was equally in the power of any one of them to have committed.

II. In answer to your second objection, I have to say, as I have heretofore said to you, that the department contracts for the carrying of the mails a specified number of trips, upon a schedule of arrivals and departures agreed on. It pays for the trips of service performed, and refuses to pay for service not performed. The precise facts on which this objection is based are, that on occasions the "whole motive power of the [your] company" is appropriated, "by authority of the war department," by which you are prevented from carrying the mails. In such a case the department refuses to pay you for the service which you do not perform, and for which you insist the company ought to be paid. Why? Your "whole motive power" is employed, by the authority of the war department, in the service of that department, and not in the postal service; and the war department pays your company for that service. Upon what principle do you demand also to be paid by the post office department for service which there is no pretension of your having performed, and when the war department was paying you for the use of your "whole motive power?" The rule of this department, under which it refuses to pay you for what you never did, is applied to all other companies just as it is to yours, and seems to me so manifestly just that I must express my

surprise that it should be seriously questioned in its application to such a state of facts.

III. In answer to your third objection, I would say, that under the laws and regulations relating to the postal service, and under the contract and accompanying schedules of arrivals and departures of the mails, a failure of the mails cannot occur on your road without the knowledge of your officers and agents; and it is made the duty of all mail contractors, on the occurrence of failures, to render a specific excuse, setting forth particularly the cause of failure, as will be seen by reference to chapter 33 of the Regulations of the Department, which was in force for many years in the United States before its adoption by us. If failures occur, and the contractor, with full knowledge of the fact and of the necessity of rendering an excuse for it, fails to do so, the department proceeds to make its deductions on the settlement of the quarterly account of the contractor. But in the case of rail roads, the department has so far modified this rule, as you were informed in my letter of April 11, 1864, as to furnish the companies, on the settlement of their accounts, with a statement of any failures which may have occurred, and for which deductions have been made, giving the dates and places at which the failures occurred. And the department consents afterwards to reopen the account, if the company wishes to present evidence to excuse its failures. But, in such cases an account will only be reopened when it appears that the company might have been taken by surprise by the action of the department, or when, from any other cause, manifest injustice would be done the company by a refusal to reopen the account. In a simple case of neglect or refusal on the part of the company to send in the necessary excuse at the proper time, when it had knowledge of the failure and of the necessity for the excuse, the account would not be reopened, and the deduction would be required to stand.

I enclose to you herewith, a copy of the circular sent by this department to contractors whenever deductions have been made from their pay, stating the amount of deductions and dates of the failures for which they are made, and setting forth the rules and reasons on which these deductions are made. I also send you herewith, a copy of the circular sent by the department to all contractors on whom fines are imposed, stating the amount of the fines and the dates of the delinquencies for which they are imposed, and giving the rules and reasons for exacting them. The rules on which fines are imposed and deductions made, and the practice of the department under them, have the sanction of long use and the approval of a long line of postmasters general under the old government, as well as of the uniform practice of this government for more than three years. I have carefully considered your objections to them, but can see no reason which calls for a change, and must adhere, in the case of your road as well as of all others, to the existing regulations and practice.

In your letter you propose the creation of a new tribunal to settle dif-

ferences of opinion between the department and its contractors. This would require the action of the legislative department of the government, if any were necessary. There is no complaint or pretence that the department fails or refuses to pay contractors for all the services performed by them. But your complaint is that the department refuses to pay your company for service which it does not perform, and when it is receiving pay from another department of the government for the use of its "whole motive power," to the exclusion of the mails. This is not a question of rules or practice of so doubtful import as to give rise to differences of opinion, which might be adjusted by an appellate tribunal, but is simply a question as to whether the department, in disregard of the laws and regulations for its government and of the terms of the contract with its carrier, should pay for service never performed. It is proper to say, however, that if, in the settlement of the accounts of a contractor by this department, he believes injustice has been done him, he has the right of appeal from the auditor to the comptroller, where he can have a rehearing and a re-examination of the case. This is the provision made by law to secure both contractors and the department against errors of decision, or disregard of law and the provisions of contracts, by the officers or parties concerned: and I have no authority, if I supposed it proper to do so, to agree to any other appellate tribunal.

Another point presented in the notice of Superintendent Whitecomb, is that unless the department shall pay your company for the services performed since the first of July 1863, it will refuse to carry the mails.

The department found it necessary to insist that the rail road companies should enter into contract with it, in order to give it the necessary power to control the schedules and give regularity and reliability to the mails. Where companies, as was the case with yours, refuse to enter into contracts and thus to become amenable to the laws and regulations governing the service, our only alternative was to refuse payment to such companies for service until they should consent to enter into the usual contract. You have been, I believe, repeatedly notified that whenever you should enter into contract with the department, your past service would be recognized and your company paid, and that you would not be paid until such contract was made. I now repeat that I shall not authorize payment to your company until it shall enter into contract. But if it chooses to enter into the usual contract, I will then recognize its past service, and direct payment to be made for it. The question is not fairly presented when you say you will not carry the mails longer, unless the department pay you for past services. You have from the first been notified that the department would not pay you for service unless you would enter into contract. On receiving that notice, it was at your option to refuse or to continue to carry the mails. If you chose to go on, the department had the right to expect that you intended to enter into contract as it required.

Altogether, you insist on a change of the Rules and Regulations of the Department to suit your views. You demand, as a condition absolute to your continuance to carry the mails, that the department shall allow you to determine who shall ride in the mail cars—a demand which it is not probable was ever before made in the history of rail road service, and which has certainly not been made by any company in the Confederate States. And you demand pay for service which you do not pretend to have performed, and say you will not continue to carry the mails, unless the department will consent to pay you for past service without your entering into contract. This department cannot concede any of these demands, as you have been repeatedly informed. If, upon these facts, you choose to refuse to carry the mails, it only remains for the department to provide the next best service it can, and to notify the public that you refuse to carry the mails for the government and people on the terms and conditions on which they are carried by all other rail roads, and because the department will not yield to your demand of stipulations and conditions which are unlawful, against sound policy, and one of them unconscionable.

The course you propose to adopt is one, which must so seriously affect the interests of the people at large and of the government and army, that I would respectfully request that you consent to submit the matter to your board of directors before you take final action, and allow them to examine the whole correspondence between us, a full copy of which I will have prepared for the purpose, if you request it.

Very respectfully,

JOHN H. REAGAN, *P. M. General.*

E. Fontaine, Esq., Pres. Va. Central R. R. Co.

CONFEDERATE STATES OF AMERICA,
Post Office Department, 186

SIR :

A deduction of \$ has been made from your pay, as contractor on Route No. , for

This has been done upon the principle, expressly stated in the advertisement for proposals, and inserted in all the contracts of this department for the transportation of the mails, that “in all cases there is to be a forfeiture of the pay of the trip when the trip is not run.”

You are reminded of the necessity of *promptly* forwarding to this office any excuse which you may desire to offer for a failure or delinquency, and that “a specific excuse” is required, and “general allegations” are not admitted. It is also important, where an excuse is tendered for having failed to perform a trip or half trip, that you state in it whether any, and if any, what effort was made to perform the service.

To entitle an excuse for any failure or delinquency to be considered, IT IS REQUIRED that the facts stated in it be in all cases verified by the

affidavit of the person having a personal knowledge of them, or by the official certificate of a postmaster.

If, after waiting a reasonable time, no specific and satisfactory excuse be received, the case will be presented to the postmaster general for his action, and no fine or deduction will be remitted on any excuse rendered after the decision is made.

Very respectfully, your obedient servant,

———, *in charge of Inspection Office.*

[No. 3.]

CONFEDERATE STATES OF AMERICA,
Post Office Department, 186

SIR:

The postmaster general has adopted the following Regulations for the government of this office, viz:

"Inasmuch as failures to arrive at the end of their routes and other points within contract time cannot but be known in all cases to contractors or their agents, it cannot be necessary to give them information thereof when reported by postmasters; and it is considered their duty to send to the department forthwith their excuses for such failures, if any they have: Therefore,

ORDERED, That no notice be given to contractors of failures to arrive at any post office in contract time as reported by postmasters to the department; and if no excuse be received from them within a reasonable time, the chief clerk is directed to present the case thus reported to the postmaster general for fine.

ORDERED, That a specific excuse be required for each specific delinquency of any contractor, and that general allegations be not admitted. If bad roads be alleged, a specific report must be made of what portion of the road was so bad as to obstruct the mails, and what was its peculiar condition. If high water, it must be shown what water courses were impassable; and so of all other excuses."

Should you at any time fail to arrive at the end of your route, or any intermediate post office, where time of arrival is fixed, within the time specified in your contract or schedule, it will be expected of you immediately, by yourself or agent, to send your excuse to this office, setting forth particularly the cause of your failure, and what effort, if any, was made to perform the trip, together with the exact *dates* and NUMBER of the route; and if, after waiting a reasonable time, no specific and satisfactory excuse be received, the case will be presented to the postmaster general for fine; and no fine or deduction will be remitted on any excuse rendered after the decision is made.

You have been fined \$
for failures at
on Route No. *on the*

Very respectfully, your obedient servant,

———, *in charge of Inspection Office.*

VIRGINIA CENTRAL RAIL ROAD,
General Supt's Office, Richmond, Va., Aug. 4, 1864.

SIR :

I respectfully ask the return of the original letter of the president, addressed to me, relating to the proposed contract. I kept no copy. I will send a copy to you if desired, or you can take one, as you think best.

I have read the letter of the postmaster general to the president of this company, and observe, with extreme surprise, the following passage :

“Another point presented in the notice of Superintendent Whitcomb is, that unless the department shall pay your company for the services performed since the 1st of July 1863, it will refuse to carry the mails.”

I have carefully read over my “notice” to the postmaster general, and feel compelled to say that no such threat is contained in that document, and no language is used which would warrant such a construction. On the contrary, I stated that “the president has no desire to punish the people of Virginia, &c., by rejecting the mail, even though you persist in what he regards your course of injustice.”

Very respectfully,

Your obedient servant,

H. D. WHITCOMB, *Gen. Supt.*

H. St. Geo. Offutt, Esq., Chief Contract Bureau.

POST OFFICE DEPARTMENT,
Richmond, August 4, 1864.

SIR :

Mr. Offutt, the chief of the contract bureau, has handed me your letter of this date, in which you say :

“I have read the letter of the postmaster general to the president of this company, and observe, with extreme surprise, the following passage :

“‘Another point presented in the notice of Superintendent Whitcomb is, that unless the department shall pay your company for the services performed since the 1st of July 1863, it will refuse to carry the mails.’

“I have carefully read over my ‘notice’ to the postmaster general, and feel compelled to say that no such threat is contained in that document, and no language is used which would warrant such a construction. On the contrary, I stated the president has no desire to punish the people of Virginia, &c., by rejecting the mail, even though you persist in what he regards your course of injustice.”

In your notice above referred to, you say :

“I am instructed by the president of this company to say that his duty to the stockholders *will not allow him to continue the use of a car by you*

for the mails and your agents, without compensation." And further on you say, "*If the existing difficulties are not settled, on and after the 1st of August I shall demand of all your agents the payment of the usual fare of first class passengers, when they travel with the mail, and shall also limit the space to be occupied by the mails.*"

I quoted the whole of your notice, including the above passages, in my letter to the president of the company, which you say you have read. I now italicise these passages, to call your attention specially to them. It is my duty to say that your notice would convey to any stranger to this discussion the impression that this department had refused, and was refusing to pay the company for the service it had performed and was performing, and that *in consequence of this*, you proposed to refuse to carry the mails, unless payment was made. Now, the truth is—and I suppose you have all the time been fully aware of it—that this department is now, and has all the time been willing and anxious to pay your company for all the service it has performed or may perform, if it would enter into the usual contract. And a further truth is, that you proposed by your notice to compel the department to pay your company without its having entered into contract.

The terms of contract between the department and rail road companies require, "that the mails shall be conveyed in a secure and safe manner, free from wet or other injury, in a separate and convenient car, or apartment of a car, suitably fitted up, furnished, warmed and lighted, under direction of the post office department, and to the satisfaction of the postmaster general, or of his authorized special agent, at the expense of the contractor, for the assorting and safe-keeping of the mail, and for the exclusive use of the department and its mail agent; and such agent shall be conveyed free of charge."

And "that the company shall convey, free of charge, * * * * * all accredited special agents of the department, on the exhibition of their credentials."

I did not profess to give your language when I said your notice was a refusal to continue to carry the mails, unless the department would pay the company for past services, rendered without a contract, and with notice that it would not pay for service without a contract.

You say such was not the language or meaning of your notice. But you cannot be ignorant of the fact that this department could not send its mails along your road by a "passenger," which you proposed to consider its agent, or without the room and facilities required for the security and distribution of the mails, and under circumstances which would exclude the department from the exclusive control of the necessary room and facilities to enable it to have the service performed. When you refuse to allow the department the means and facilities for carrying the mails, and refuse to enter into the usual and necessary contract to enable it to carry them on your road, whatever ingenuity of language you em-

ploy to avoid the responsibility of a refusal to carry the mails, I am authorized and bound to regard such action as a refusal to carry the mails. If we cannot agree as to the effect of your notice, the public must, in case of necessity, judge between us. I chose to consider and act on the meaning and effect of your notice, in view of the precedent facts and necessary consequences which must flow from it, and not to spend time in discussing the question as to whether depriving the department of the means to carry the mails on your road, and refusing to carry them under a contract which would subject the company to the laws and regulations which provide for the security of the mails and the regularity of the service, was or was not a refusal to carry the mails.

Very respectfully,

JOHN H. REAGAN, *P. M. General.*

H. D. Whitcomb, Esq., Gen. Supt. Va. Central R. R.

RICHMOND, VA., August 9, 1864.

SIR :

Below I send you a copy of an order from Mr. Whitcomb, general superintendent of the Virginia Central rail road, to the conductors of said road :

"August 5, 1864.—On and after Tuesday next, you will demand from the agents of the post office department traveling on the cars, the regular fare for first class passengers. In executing this order for the present, however, nothing is to be done to the *route agent in charge of the mail*, which will prevent its being distributed as usual. Should he refuse payment, your remedy will be to report the fact to me for further action.

H. D. WHITCOMB, *Gen. Sup.*"

To-day the order was made, and we positively refused to pay the fare.

They have taken our water cooler and stove out, and we now have none of the comforts heretofore enjoyed in the car.

Please instruct us what to do.

Very respectfully,

WM. H. HAAS,
G. G. GOOCH,

Route Agents Central R. R.

Hon. J. H. Reagan, P. M. General.

POST OFFICE DEPARTMENT,
Richmond, August 10, 1864

GENTLEMEN:

Your letter of yesterday, furnishing me with a copy of the order of H. D. Whitcomb, Esq., general superintendent of the Virginia Central rail road, dated the 5th instant, to the conductors of said rail road, directing them to demand from the agents of the post office department the regular fare for first class passengers, and advising me of your refusal to pay the fare, is received. You also say, "they [the rail road company] have taken our water cooler and stove out, and we now have none of the comforts heretofore enjoyed in the car."

You did right in refusing to pay the fare demanded under this order. and you are directed not to go upon the cars of this company as the agents of this department, nor to attempt to carry the mails on them hereafter, unless by its directions, hereafter to be given.

You will please also notify Mr. E. J. Swift, your associate route agent. that this order applies to him as well as to yourselves.

Very respectfully,

JOHN H. REAGAN, *P. M. General*
Wm. H. Haas and G. G. Gooch, Route Agents Va. Cent. R. R.

